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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,467	11/20/2003	Peter B. Rim	H0006488-4820	1047
7590	01/05/2006			
Richard S. Roberts Roberts & Mercanti, L.L.P. P.O. Box 484 Princeton, NJ 08542-0484			EXAMINER PIZIALI, ANDREW T	
			ART UNIT 1771	PAPER NUMBER

DATE MAILED: 01/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/718,467	RIM ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Andrew T. Piziali	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 12/15/2005.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 7 and 27 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-6,8-26 and 28-34 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 11/9/05 & 11/20/03 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendment to the drawings, filed on 11/9/2005, and to the amendment to the specification, filed on 12/15/2005, have been entered. The examiner has withdrawn the drawing objection based on the newly submitted drawings. The examiner has withdrawn the specification objection based on the amendment to the specification.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2, 4, 6, 8-22, 24, 26 and 28-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,461,724 to Wiedner et al. (hereinafter referred to as Wiedner) in view of USPN 5,902,384 to Rohrbach et al. (hereinafter referred to as Rohrbach).

Regarding claims 1-2, 4, 6, 8-22, 24, 26 and 28-34, Wiedner discloses a composite textile article which comprises: a) a sheet of a central textile fabric (2) having a front side and a rear side wherein said sheet of central textile fabric is water vapor permeable; b) a pair of sheets of outer textile fabrics, one of the sheets (1) of outer textile fabrics positioned on the front side of the sheet of central textile fabric and the other sheet (3) of outer textile fabric positioned on the rear side of the sheet of central textile fabric wherein each sheet of outer textile fabric is water vapor permeable; c) the sheet of central textile fabric and the pair of sheets of outer textile fabrics being attached together via a sealed hem around a perimeter of the sheet of central textile

fabric and the pair of sheets of outer textile fabrics, which hem is sealed (see entire document including column 1, lines 56-65, column 2, lines 38-47, column 5, lines 51-61, column 8, line 67 through column 9, line 23, and the Figures).

Wiedner does not specifically mention the use of central textile fibers comprising semi-opened micro-cavities that have been impregnated with at least one biological and/or chemical decontamination reagent, but Wiedner does disclose that the object of the invention is to provide an article of clothing which may be used in the chemical field and which effectively prevents the passage of substances, such as micro-organisms, through the article of clothing (column 1, lines 43-55). Wiedner also discloses that the central layer may comprise material that absorbs the substance (column 3, lines 28-37). Rohrbach discloses that it is known in the chemical microorganism absorbent fiber art to use fibers having semi-opened micro-cavities that have been impregnated with at least one chemical decontamination reagent in an amount sufficient to chemically modify, neutralize and/or decontaminate chemical contaminants (see entire document including (column 1, line 53 through column 2, line 34, column 3, lines 36-64, and Figures 1-3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the fibers taught by Rohrbach within the central textile fabric, because the fibers would chemically modify, neutralize and/or decontaminate chemical contaminants and because it is within the general skill of a worker in the art to select a known material on the basis of its suitability and desired characteristics.

Regarding claims 2 and 22, Rohrbach discloses that the fibers may comprise polymeric multilobal fibers that have a central core having a plurality of T-shaped lobes projecting therefrom, each of said T-shaped lobes having a leg and a cap, said lobes defining a

longitudinally extending internal cavity between two adjacent legs that extends the entire length of the fiber (column 3, lines 36-64 and Figure 3).

Regarding claims 4 and 24, Wiedner discloses that the same type of chemical materials may be used in all of the layers so that the shrinkage of the various layers and their behavior when sterilized are similar (column 7, lines 47-51). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make at least one of the sheets of outer textile fabrics from the fibers disclosed by Rohrbach, so that the shrinkage of the various layers and their behavior when sterilized are similar and because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability and desired characteristics.

Regarding claims 6, 8, 10, 26, 28 and 30, Wiedner discloses that each sheet of outer textile fabric may be liquid impermeable (column 1, lines 56-65).

Regarding claims 9-10 and 29-30, Wiedner discloses that the central textile fabric may be liquid impermeable (column 3, lines 38-54).

Regarding claims 12-14, Rohrbach discloses that the fibers may be impregnated with chemical decontamination reagent powder particles (column 3, lines 36-64). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the impregnated fibers taught by Rohrbach within the central textile fabric, because the impregnated fibers would chemically modify, neutralize and/or decontaminate chemical contaminants and because it is within the general skill of a worker in the art to select a known material on the basis of its suitability and desired characteristics.

Regarding claim 13, Rohrbach discloses that the powder particles may be infused between said fibers and in said cavities, said powder particles being of such a size and shape that they are retained within each cavity (column 3, lines 50-64 and Figure 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the impregnated fibers taught by Rohrbach within the central textile fabric, because the impregnated fibers would chemically modify, neutralize and/or decontaminate chemical contaminants and because it is within the general skill of a worker in the art to select a known material on the basis of its suitability and desired characteristics.

Regarding claim 14, Weidner discloses that the powder particles may range in size from about 1 micron to about 10 microns (column 3, lines 50-64 and Figures 2-3).

Regarding claims 15 and 16, Weidner discloses that the chemical decontamination reagent may comprise one or more materials such as sodium permanganate, sodium carbonate, sodium phosphate, activated carbon, zeolites, baking soda, cyclodextrins, PTFE, or any other material of interest (column 2, lines 6-14, column 3, lines 23-26 and 58-64, and column 6, lines 25-42).

Regarding claims 17-18 and 31-32, Weidner discloses that the composite textile article may be part of a garment or head covering and that a breathable atmosphere may be passed through the composite to thereby chemically modify, neutralize and/or decontaminate chemical contaminants from the breathable atmosphere. (column 1, lines 1-16 and 43-55, column 2, lines 38-47, and column 3, lines 12-27).

Regarding claims 19-20 and 33-34, Weidner discloses that the composite textile article may be part of a flexible garment wherein the shape is configured to contain all or part of a

human body wherein a cutout exists through the flexible fabric material, wherein a panel is removably attached around a periphery of the cutout by a hook and burr fastener, and wherein the panel comprises the composite textile article (column 1, lines 1-16 and 43-55, and column 5, lines 27-35).

4. Claims 3, 5, 23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,461,724 to Wiedner in view of USPN 5,902,384 to Rohrbach as applied to claims 1-2, 4, 6, 8-22, 24, 26 and 28-34 above, and further in view of USPN 5,597,645 to Pike et al. (hereinafter referred to as Pike).

Wiedner does not specifically mention impregnating the central textile fabric or at least one of the sheets of outer textile fabrics with at least one chemical decontamination reagent, but Pike discloses that it is known in the gas/liquid textile fabric filter art to add chemical absorbent particles within a fiber matrix to enhance the performance of the filter media (see entire document including column 9, line 65 through column 10, line 6). It would have been obvious to one having ordinary skill in the art at the time the invention was made to add chemical absorbent particles within the central textile fabric and/or at least one sheet of outer textile fabric to enhance the performance of the filter media.

#### *Response to Arguments*

5. Applicant's arguments filed 12/15/2005 have been fully considered but they are not persuasive.

In response to applicant's argument that Rohrbach is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order

to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, as demonstrated by Figures 1-3, Rohrbach is undeniably in the field of applicant's endeavor because Figures 1-3 are admittedly identical to applicant's Figures 1-3. In addition, Rohrbach is pertinent to the particular problem with which the applicant was concerned, which is removing airborne biological and/or chemical contaminants from a breathable atmosphere (see current page 6, lines 4-5 and column 5, lines 62-66 of Rohrbach).

In response to applicant's argument that Pike is nonanalogous art, Pike is in the field of applicant's endeavor, which is a fiber fabric gas filter (see current page 1, lines 9-12 and column 1, lines 4-6 of Pike). In addition, Pike is pertinent to the particular problem with which the applicant was concerned, which is removing airborne biological and/or chemical contaminants from a breathable atmosphere (see current page 6, lines 4-5 and column 16, lines 35-38 of Pike).

The applicant admits that Wiedner discloses a hem, but asserts that the hem is not a sealed hem. The examiner respectfully disagrees. The current specification clearly defines a "sealed hem" as a hem that prevents a decontamination reagent from passing through the hem (see the abstract, page 3, lines 22-24, page 4, lines 16-17, page 5, lines 6-7, page 11, lines 18-20, and page 13, lines 2-3). Wiedner clearly discloses that the seams may be displaced relative to one another to ensure that a path is not offered to liquid or bacteria through the stitches (column 2, lines 62-67).

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew T. Piziali whose telephone number is (571) 272-1541. The examiner can normally be reached on Monday-Friday (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

atp

*GJ* 12/20/05

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PATENT EXAMINER

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